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FEDERAL COMMUNICATIONS COMMISSION

JUL 7 1998

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In the Matter of
Implementation of Section 255 of the
Telecommunications Act of 1996

COMMENTS OF:
CENTER FOR INDEPENDENT LIVING OF NORTHEASTERN MINNESOTA
DULUTH BRANCH OFFICE

The Center for Independent Living of Northeastern Minnesota (CILNM) submits these comments to the Federal Communications Commission on its proposed Section 255 rules. Our mission at the Center for Independent Living is to assist individuals with disabilities to live independently, pursue meaningful goals, and have the same opportunities and choices as all persons. Our services include: independent living skills training, information and referral, public education, ramp project, and advocacy to persons with disabilities and their families. Many of the consumers we work with do not have accessible telecommunication products. The availability of these products would allow a great number of persons with disabilities to become more independent in all aspects of their lives.

We applaud the FCC for issuing proposed rules to implement Section 255 of the Telecommunications Act of 1996. Increased access to telecommunications equipment is critical to expanding employment, educational, and recreational opportunities for individuals with disabilities. We urge the FCC to adopt the suggestions contained in these comments so that our needs are fully considered in the design, development, and fabrication of telecommunications products and services.

Adoption of Access Board Guidelines

We strongly urge the Commission to adopt the Section 255 guidelines which were issued by the Architectural and Transportation Barriers Compliance Board (Access Board) on February 3, 1998. Congress had given the Access Board the primary authority to draft those guidelines, which should now be enforced by the FCC. In addition to the guidelines on achieving accessibility, we especially urge the FCC to adopt and enforce the following guidelines for both service providers and equipment manufacturers:

- Where market research on products or services is performed, individuals with disabilities should be included in the populations researched;
- Where product design trials and pilot demonstrations are conducted, individuals with disabilities should be included in these activities;

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- Reasonable efforts should be made to validate access solutions through testing with individuals with disabilities, or related organizations;
- Manufacturers and service providers should be required to provide access to product and service information and documentation on products and services and their accessibility features, including information contained in user and installation guides. To the extent that such information is made available to the general public, it should be made available in accessible formats or modes upon request, at no extra charge. Manufacturers should also include the name and contact means for obtaining information about (1) accessibility features and (2) how to obtain documents in alternate formats, in general product information. Additionally, customer and technical support provided at call and service centers should be accessible by people with disabilities. For people who are deaf or hard of hearing, captioning on video cassettes containing product instructions, direct TTY access to customer service lines, text transcriptions for audio output on Internet postings, and automated TTY response systems that detect whether a caller is using voice or TTY and which enable the caller to complete the call in an accessible format, should be used to comply with these access requirements;
- The Access Board guidelines make clear that in addition to covering new products, Section 255 covers existing products that "undergo substantial change or upgrade, or for which new releases are distributed." The changes to which this statement refers are those that affect the functionality of the product, rather than cosmetic changes. It is critical for both manufacturers and service providers to consider disability access as they make substantial changes or upgrades to their public offerings;
- The Access Board's guidelines do not permit manufacturers to make changes that reduce access to products. This is intended to ensure that individuals with disabilities are not forgotten, as improvements and upgrades to products and services are performed. It is critical for the FCC to adopt this guideline so that individuals with disabilities are not treated as second class consumers. Although we do not want to stifle innovation, we want to ensure that where improvements are made to products and services, the access function will be maintained. While we understand that the form of achieving access may need to change, there must be some assurance that some means of effective access continues to be available;
- The Access Board's guidelines set forth certain technical standards for compatibility with specialized customer premises equipment, including compatibility with TTY's and hearing aid compatible telephones. These, too should be adopted in the FCC's final rules;
- The FCC's proposed rules say that software will be covered only if the software is included with a telecommunications product. If it is marketed separately, the FCC has proposed that it not be covered by Section 255. We oppose this interpretation of Section 255. Rather, so long as software has

functions that are integral to the provision of telecommunications, it should be covered under the FCC's new rules. This would be consistent with the Access Board guidelines which cover software, hardware, or firmware that are integral to telecommunications and CPE equipment, as well as functions and features built into the product and those provided from a remote server over a network.

These guidelines are needed to provide clear guidance on the obligations of companies to make their products and services accessible. Because we work with individuals who have disabilities, it is very important to us to assure that people with disabilities will have equal access to telecommunication products. There is definitely a need for this access today.

Universal Design

We support the FCC's decision to require an assessment of accessibility and compatibility for each product. This is what Section 255 requires, and as stated in the Access Board guidelines, the assessment as to whether access can be achieved "cannot be bypassed simply because another product is already accessible." Rather the goal of Section 255 is to achieve, where readily achievable, universal design for as many disabilities as possible. Only if that is not achievable, then is it reasonable to view the overall accessibility of the provider's products or services to determine how other functionally similar products and services can be made accessible.

Enhanced Services

We are deeply concerned that enhanced services may not be covered under the FCC's new rules. The Telecommunications Act of 1996 emphasized the need to bring all the citizens of our country the benefits of advanced telecommunications technologies. The purpose of Section 255 was to ensure that this objective would be achieved for individuals with disabilities. This objective will be defeated if we are only provided with access to little more than basic telephone service. Voice mail, interactive telephone prompt systems, and Internet telephone have already become mainstream services and are critical to successfully participating and competing in our society. These services must be made accessible if the true intent of Section 255, to achieve universal telecommunications access, is to be realized.

Many of the consumers we work with have multiple disabilities and if these services are excluded, these individuals will remain second class citizens with respect to new telecommunications technological advances. The following are actual problems which we regularly hear from our consumers: A woman with a learning disability has a very difficult time trying to process information given on voice menus because the information is said too fast, and not enough time is given to write down or remember the options. Also, several people we work with have physical limitations due to their disabilities. This makes it hard for them to use any phone outside of their home, due to pressing small intricate buttons, as well as picking up the receiver. Also, persons who have motor or dexterity limitations have difficulties accessing the appropriate assistance in an efficient manner through voice menus because the system does not allow them enough

time to enter the necessary response or command. For individuals who have severe disabilities which make it hard for them to leave their home for long periods of time, advanced telecommunication services are their main connection with society. If they do not have access to this communication, it will again place them as a second class citizen with respect to technological advances. These are just a few of the problems which are regularly encountered. Full and complete participation in today's society relies on the accessibility of all telecommunication products and services, not just basic telephone service. Everyone one of us will acquire some sort of disability in our lifetime. Whether short or long term, it would be a benefit to all of us, to have readily available access to all telecommunications products and services.

Readily Achievable Determinations

Under Section 255, manufacturers must make their products accessible or compatible if it is readily achievable to do so. The "readily achievable" language is from the Americans with Disabilities Act (ADA) and involves a balancing of the nature and costs of including an access feature with the overall financial resources of the covered entity (and the resources of its parent corporation, where applicable). We accept the FCC's suggestion that technical feasibility also may be considered in determining whether access to a product or service can be achieved. However, we oppose considering the extent to which an accessible product can be marketed (when compared to inaccessible products), and the extent to which the costs of providing access will be recovered, in readily achievable determinations. These are not permissible factors under the ADA, and should not be included in a readily achievable analysis under Section 255.

Complaint Process

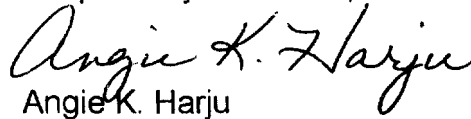
We support the following FCC proposals concerning consumer complaints:

- There should be no filing fees for informal or formal complaints with the FCC against either manufacturers or service providers. Waiving these fees would be in the public interest.
- There should not be any time limit for filing complaints, because one never knows when he or she will discover that a product or service is inaccessible.
- Consumers with disabilities should be able to submit complaints by any accessible means available.
- Manufacturers and service providers should be required to establish contact points in their companies that are accessible to consumers with disabilities.

We adamantly oppose a rule that would require consumers to first receive approval from the FCC before being permitted to bring a formal FCC complaint. This is not a requirement for other formal complaints brought before the Commission and appears to be discriminatory against individuals with disabilities.

We here at CILNM, thank the FCC for the opportunity to submit these comments, and urge the FCC to act promptly in issuing rules that will fully ensure telecommunications access by individuals with disabilities.

Respectfully submitted,


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